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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

-----X Case #: CV-S-03-1550-RLH-(LRL)
LOUIS TAKACS, on behalf of himself
and others similarly situated,

Plaintiffs,

--against--

JOSHUA MICHAELY, PRESTIGE OF LAS VEGAS,
INC., GALINA KUBRAK, AMERICAN REALTY
GROUP, INC., AMERICAN REALTY OF CALIFORNIA,
INC., and NELLIS MOTEL COMPANY, INC.

Defendants.

-----X

SECOND AMENDED COMPLAINT

The Plaintiff, by his attorney, Leon Greenberg Professional Corporation, as and for a Complaint against the defendants, states and alleges, as follows:

JURISDICTION, PARTIES AND PRELIMINARY STATEMENT

1. This Court has jurisdiction over the claims presented on the First Claim for Relief pursuant to the Act of June 25, 1938, ch 676, 52 Stat 1069, 29 USC Sections 201-219, known as the Fair Labor Standards Act ("the FLSA" or "the Act"), a law of the United States regulating interstate commerce, and specifically under the provisions of Section 16 of said act, as amended (29 U.S.C. § 216(b)).

2. This Court has jurisdiction over the Nevada State Law

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1 claims presented in the Second Claim for Relief pursuant to 28
2 U.S.C. § 1367(a).

3 3. The plaintiff LOUIS TAKACS ("plaintiff") is a resident of
4 the State of Nevada and a former employee of the defendants or one
5 or more of the defendants.

6 4. The corporate defendant PRESTIGE OF LAS VEGAS,
7 INC., ("Prestige") is owned and/or controlled and/or operated
8 and/or managed by the defendant JOSHUA MICHAELY ("Michaely").

9 5. The defendant Prestige is a corporation formed and
10 existing pursuant to the Laws of the State of Nevada and has its
11 principal place of business in Clark County Nevada.

12 6. The corporate defendant NELLIS MOTEL COMPANY, INC.
13 ("Nellis") is owned and/or controlled and/or operated and/or
14 managed by the defendant Michaely.

15 7. The defendant Nellis is a corporation formed and existing
16 pursuant to the Laws of the State of Nevada and has its principal
17 place of business in Clark County Nevada.

18 8. The corporate defendant AMERICAN REALTY OF CALIFORNIA,
19 INC. ("American California") is owned and/or controlled and/or
20 operated and/or managed by the defendant Michaely.

21 9. The defendant American California is a corporation formed
22 and existing pursuant to the Laws of the State of Nevada and has
23 its principal place of business in Clark County Nevada.

24 10. The corporate defendant AMERICAN REALTY GROUP, INC.
25 ("American") is owned and/or controlled and/or operated and/or
26 managed by the defendant Michaely.

1 11. The defendant American is a corporation formed and
2 existing pursuant to the Laws of the State of Nevada and has its
3 principal place of business in Clark County Nevada.

4 12. The corporate defendant Prestige is owned and/or
5 controlled and/or operated and/or managed by the defendant GALINA
6 KUBRAK ("Kubrak").

7 13. The corporate defendant American is owned and/or
8 controlled and/or operated and/or managed by the defendant Kubrak.

9 14. The corporate defendant Nellis is owned and/or
10 controlled and/or operated and/or managed by the defendant Kubrak.

11 15. The corporate defendant American California is owned
12 and/or controlled and/or operated and/or managed by the defendant
13 Kubrak.

14 16. The defendant Michaely is a resident of the State of
15 Nevada.

16 17. The defendant Michaely is an officer of the defendant
17 Prestige.

18 18. The defendant Michaely is a director of the defendant
19 Prestige.

20 19. The defendant Michaely is a shareholder of the defendant
21 Prestige.

22 20. The defendant Michaely is a manager of the defendant
23 Prestige.

24 21. The defendant Michaely is an employee of the defendant
25 Prestige.

26 22. The defendant Michaely exercised control over the
27

1 employment of the plaintiff by the defendant Prestige in that
2 Michaely specifically directed how the plaintiff was to be paid by
3 Prestige and/or made decisions on behalf of Prestige, or that
4 Prestige followed, to not pay the plaintiff the overtime pay that
5 is complained of herein, and it is further alleged that such
6 conduct by the defendant Michaely has made him an "employer" or a
7 "person acting on behalf of an employer" within the meaning of the
8 FLSA and rendered Michaely personally liable to the plaintiff for
9 the claims made herein.

10 23. The defendant Michaely is an officer of the defendant
11 American.

12 24. The defendant Michaely is a director of the defendant
13 American.

14 25. The defendant Michaely is a shareholder of the defendant
15 American.

16 26. The defendant Michaely is a manager of the defendant
17 American.

18 27. The defendant Michaely is an employee of the defendant
19 American.

20 28. The defendant Michaely exercised control over the
21 employment of the plaintiff by the defendant American in that
22 Michaely specifically directed how the plaintiff was to be paid by
23 American and/or made decisions on behalf of American, or that
24 American followed, to not pay the plaintiff the overtime pay that
25 is complained of herein, and it is further alleged that such
26 conduct by the defendant Michaely has made him an "employer" or a
27

1 "person acting on behalf of an employer" within the meaning of the
2 FLSA and rendered Michaely personally liable to the plaintiff for
3 the claims made herein.

4 29. The defendant Michaely is an officer of the defendant
5 American California.

6 30. The defendant Michaely is a director of the defendant
7 American California.

8 31. The defendant Michaely is a shareholder of the defendant
9 American California.

10 32. The defendant Michaely is a manager of the defendant
11 American California.

12 33. The defendant Michaely is an employee of the defendant
13 American California.

14 34. The defendant Michaely exercised control over the
15 employment of the plaintiff by the defendant American California in
16 that Michaely specifically directed how the plaintiff was to be
17 paid by American California and/or made decisions on behalf of
18 American California, or that American California followed, to not
19 pay the plaintiff the overtime pay that is complained of herein,
20 and it is further alleged that such conduct by the defendant
21 Michaely has made him an "employer" or a "person acting on behalf
22 of an employer" within the meaning of the FLSA and rendered
23 Michaely personally liable to the plaintiff for the claims made
24 herein.

25 35. The defendant Michaely is an officer of the defendant
26 Nellis.

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1 36. The defendant Michaely is a director of the defendant
2 Nellis.

3 37. The defendant Michaely is a shareholder of the defendant
4 Nellis.

5 38. The defendant Michaely is a manager of the defendant
6 Nellis.

7 39. The defendant Michaely is an employee of the defendant
8 Nellis.

9 40. The defendant Michaely exercised control over the
10 employment of the plaintiff by the defendant Nellis in that
11 Michaely specifically directed how the plaintiff was to be paid by
12 Nellis and/or made decisions on behalf of Nellis, or that Nellis
13 followed, to not pay the plaintiff the overtime pay that is
14 complained of herein, and it is further alleged that such conduct
15 by the defendant Michaely has made him an "employer" or a "person
16 acting on behalf of an employer" within the meaning of the FLSA and
17 rendered Michaely personally liable to the plaintiff for the claims
18 made herein.

19 41. The defendant Kubrak is a resident of the State of
20 Nevada.

21 42. The defendant Kubrak is an officer of the defendant
22 Prestige.

23 43. The defendant Kubrak is a director of the defendant
24 Prestige.

25 44. The defendant Kubrak is a shareholder of the defendant
26 Prestige.

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1 45. The defendant Kubrak is a manager of the defendant
2 Prestige.

3 46. The defendant Kubrak is an employee of the defendant
4 Prestige.

5 47. The defendant Kubrak exercised control over the
6 employment of the plaintiff by the defendant Prestige in that
7 Kubrak specifically directed how the plaintiff was to be paid by
8 Prestige and/or made decisions on behalf of Prestige, or that
9 Prestige followed, to not pay the plaintiff the overtime pay that
10 is complained of herein, and it is further alleged that such
11 conduct by the defendant Kubrak has made her an "employer" or a
12 "person acting on behalf of an employer" within the meaning of the
13 FLSA and rendered Kubrak personally liable to the plaintiff for the
14 claims made herein.

15 48. The defendant Kubrak is an officer of the defendant
16 American.

17 49. The defendant Kubrak is a director of the defendant
18 American.

19 50. The defendant Kubrak is a shareholder of the defendant
20 American.

21 51. The defendant Kubrak is a manager of the defendant
22 American.

23 52. The defendant Kubrak is an employee of the defendant
24 American.

25 53. The defendant Kubrak exercised control over the
26 employment of the plaintiff by the defendant American in that
27

1 Kubrak specifically directed how the plaintiff was to be paid by
2 American and/or made decisions on behalf of American, or that
3 American followed, to not pay the plaintiff the overtime pay that
4 is complained of herein, and it is further alleged that such
5 conduct by the defendant Kubrak has made her an "employer" or a
6 "person acting on behalf of an employer" within the meaning of the
7 FLSA and rendered Kubrak personally liable to the plaintiff for the
8 claims made herein.

9 54. The defendant Kubrak is an officer of the defendant
10 American California.

11 55. The defendant Kubrak is a director of the defendant
12 American California.

13 56. The defendant Kubrak is a shareholder of the defendant
14 American California.

15 57. The defendant Kubrak is a manager of the defendant
16 American California.

17 58. The defendant Kubrak is an employee of the defendant
18 American California.

19 59. The defendant Kubrak exercised control over the
20 employment of the plaintiff by the defendant American California in
21 that Kubrak specifically directed how the plaintiff was to be paid
22 by American California and/or made decisions on behalf of American
23 California or that American California followed, to not pay the
24 plaintiff the overtime pay that is complained of herein, and it is
25 further alleged that such conduct by the defendant Kubrak has made
26 her an "employer" or a "person acting on behalf of an employer"

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1 within the meaning of the FLSA and rendered Kubrak personally
2 liable to the plaintiff for the claims made herein.

3 60. The defendant Kubrak is an officer of the defendant
4 Nellis.

5 61. The defendant Kubrak is a director of the defendant
6 Nellis.

7 62. The defendant Kubrak is a shareholder of the defendant
8 Nellis.

9 63. The defendant Kubrak is a manager of the defendant
10 Nellis.

11 64. The defendant Kubrak is an employee of the defendant
12 Nellis.

13 65. The defendant Kubrak exercised control over the
14 employment of the plaintiff by the defendant Nellis in that Kubrak
15 specifically directed how the plaintiff was to be paid by Nellis
16 and/or made decisions on behalf of Nellis or that Nellis followed,
17 to not pay the plaintiff the overtime pay that is complained of
18 herein, and it is further alleged that such conduct by the
19 defendant Kubrak has made her an "employer" or a "person acting on
20 behalf of an employer" within the meaning of the FLSA and rendered
21 Kubrak personally liable to the plaintiff for the claims made
22 herein.

23 66. The defendants engage in a for-profit business which
24 has gross revenue in excess of \$500,000 per annum and is engaged in
25 the production of goods for interstate commerce and/or the use
26 and/or handling of goods which have moved in interstate commerce as
27

1 such terms are defined in the FLSA and are employers subject to the
2 jurisdiction of the FLSA.

3 67. The plaintiff has been an employee of the defendants
4 during the time period pertinent to this complaint, to wit, during
5 a portion of the three years immediately preceding the initiation
6 of this action. The plaintiff has performed labor and services in
7 various occupations that are subject to the aforesaid provisions
8 of the FLSA. These occupations include, but are not limited to,
9 hourly labor in defendants' construction business.

10 68. That the various violations of law which are alleged
11 herein were committed intentionally and/or willfully by the
12 defendants.

13 AS AND FOR A FIRST CLAIM FOR RELIEF PURSUANT TO THE
14 FAIR LABOR STANDARDS ACT ON BEHALF OF
15 LOUIS TAKACS AND ALL OTHERS SIMILARLY SITUATED

16 69. The plaintiff LOUIS TAKACS brings this First Claim for
17 Relief pursuant to 29 U.S.C. § 216(b) on behalf of himself and all
18 other similarly situated persons, if any, who consent in writing to
19 join this action.
20

21 70. Pursuant to the applicable provisions of the FLSA, 29
22 U.S.C. § 206 and § 207, the plaintiff was entitled to a minimum
23 wage and an overtime hourly wage of time and one-half his regular
24 hourly wage for all hours worked in excess of forty hours per week,
25 the plaintiff worked more than 40 hours per week for the
26 defendants, and the defendants willfully failed to make said
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1 overtime payments.

2

3 71. The plaintiff, LOUIS TAKACS on behalf of himself and all
4 other similarly situated persons who consent in writing to join
5 this action, seek, on this First Claim for Relief, a judgment for
6 unpaid overtime wages and/or unpaid minimum wages, and additional
7 liquidated damages of 100% of any unpaid minimum wages and/or
8 overtime wages, such sums to be determined based upon an accounting
9 of the hours worked by, and wages actually paid to the plaintiff
10 LOUIS TAKACS and any such other persons who consent to join this
11 action, and the plaintiff also seeks an award of attorney's fees,
12 interest and costs as provided for by the FLSA.

13 AS AND FOR A SECOND CLAIM FOR RELIEF
14 ON BEHALF OF LOUIS TAKACS ONLY PURSUANT TO
NEVADA REVISED STATUTES § 608.040

15

16 72. Plaintiff LOUIS TAKACS brings this Second Claim for
17 Relief pursuant to Nevada Revised Statutes § 608.040.

18 73. On or about October or November of 2003 plaintiff LOUIS
19 TAKACS was discharged from his employment with the defendants and
20 at the time of such discharge he was owed unpaid wages by the
21 defendants.

22 74. Despite due and repeated demand by the plaintiff LOUIS
23 TAKACS the defendants have failed and refused to pay said plaintiff
24 his earned but unpaid wages, such conduct by the defendants
25 constituting a violation of Nevada Revised Statutes § 608.020, or
26 § 608.030 and giving such plaintiff a claim against the defendants
27 under Nevada Revised Statutes § 608.040.

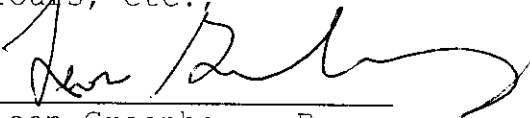
1 18. As a result of the foregoing the plaintiff LOUIS TAKACS
2 seeks a judgment against the defendants for the penalty prescribed
3 by Nevada Revised Statutes § 608.040, to wit, for a sum equal to up
4 to thirty days wages, along with interest, costs and attorney's
5 fees.

6
7 Wherefore, the plaintiff demands a judgment on all claims for
8 relief as alleged aforesaid.

9
10 Plaintiff demands a trial by jury on all issues so triable.

11
12 Dated: Clark County, Nevada
13 June 3, 2004

14 Yours, etc.

15 
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